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09/733,318	12/08/2000	L. Michael Maritzen	80398.P414	3207

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EXAMINER

VIG, NARESH

ART UNIT PAPER NUMBER

3629

DATE MAILED: 06/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/733,318

Applicant(s)

MARITZEN ET AL.

Examiner

Naresh Vig

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*[Handwritten signature]*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5.6.7</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 101*

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 – 42 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts. In the present case, claim 1 only recites an abstract idea. The recited steps of merely facilitating an exchange of information among entities in a transaction by receiving request from an entity to facilitate transaction, select an entity to exchange received information from the first entity, providing a link for exchange of information does not apply, involve, use, or

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advance the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pencil and paper. These steps only constitute an idea of how to facilitate exchange of information.

As to technological arts recited in claims 15 – 42, mere recitation (i.e., intended or field of use) or mere implication of employing a machine or article of manufacture to perform some or all of the recited steps does not confer statutory subject matter to an otherwise abstract idea unless there is positive recitation in the claim as a whole to breathe life and meaning into the preamble. In the present case, none of the recited steps are directed to anything in the technological arts as explained above with the exception of the recitation that system comprises modules to perform the abstract ideas, and, the computer readable medium to store computer programs. The system as claimed by the applicant does not use a use technological art. Looking at the claim as a whole, nothing the body of the claim recites any structure or functionality to suggest that a computer performs the recited steps. Therefore, the preamble is taken to merely recite a field of use.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present case, the claimed invention facilitates exchange of information (i.e., repeatable) used for completing a transaction (i.e., useful and tangible).

Although the recited process produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, claim 1 is deemed to be directed to non-statutory subject matter.

***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 – 11, 13 – 25, 27 – 39 and 41 – 42 are rejected under 35 U.S.C. 102(e) as being unpatentable over Walker et al. US Patent 6,085,169 hereinafter known as Walker.

Regarding claims 1, 15 and 29 Walker teaches system, program and method for facilitating an exchange of information related to a transaction among a plurality of entities involved in the transaction (between customer or travel agent and airlines) [Fig. 1, col. 6, line 21 – col. 11, line 14].

Regarding claims 2, 16 and 30, Walker teaches exchange of information is performed in real time [col. 6, lines 51 – 54, col. 8, lines 61 – 64].

Regarding claims 3, 17 and 31, Walker teaches allowing an exchange of financial information of each entity of said plurality of entities associated with said transaction [col. 9, lines 26 – 30].

Regarding claims 4, 18 and 32, Walker teaches allowing an exchange of financial information of a user associated with said transaction [col. 9, lines 26 – 30].

Regarding claims 5, 19 and 33, Walker teaches allowing an exchange of entity information associated with said transaction [col. 8, lines 61 – 64].

Regarding claims 6, 20 and 34, Walker teaches providing a link among said plurality of entities to allow said exchange of information [col. 8, lines 61 – 64].

Regarding claims 7, 21 and 35, Walker teaches link is a secure link (digitally encoded data [col. 8, lines 61 – 64].

Regarding claims 8, 22 and 36, Walker teaches allowing an exchange of distribution information associated with said transaction [col. 6, lines 21 – 54].

Regarding claims 9, 23 and 37, Walker teaches facilitating further comprises negotiating at least one element of said transaction with each entity of said plurality of entities [col. 2, lines 49 – 51].

Regarding claims 10, 24 and 38, Walker teaches inherently / obviously teaches exchange of information allows completion of said transaction [col. 3, lines 56 – 59].

Regarding claims 11, 25 and 39, Walker teaches performing said transaction by providing a best price to a user involved in said transaction [col. 7, lines 55 – 67].

Regarding claims 13, 27 and 41, Walker teaches:  
receiving a request to facilitate said transaction [col. 7, lines 55 – 56]; and  
performing said transaction based on said exchange of information [col 7, lines 56 – 60].

Regarding claims 14, 28 and 42, Walker teaches:  
selecting one entity of said plurality of entities based on said exchange of information [col. 20, lines 15 – 31]; and

performing said transaction with said one entity on behalf of a user (book the [col. 20, lines 32 – 52].

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12, 26 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. US Patent 6,085,169 hereinafter known as Walker in view of Walker et al. US Patent 6,041,308 hereinafter known as Walker-2.

Regarding claims 12, 26 and 40, Walker does not teach performing said transaction by providing a best incentive program to at least one entity of said plurality of entities involved in said transaction. However, Walker-1 teaches performing said transaction by providing a best incentive program to at least one entity of said plurality of entities involved in said transaction [abstract].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Walker as taught by Walker-2 and give incentives to at least one entity to encourage future use.



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**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 CFR '1.111 (c) to consider the references fully when responding to this office action.

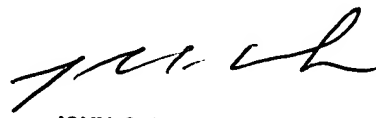
1. Walker et al. US Patent 6,240,396

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naresh Vig whose telephone number is 703.305.3372. The examiner can normally be reached on M-F 7:30 - 5:00 (Alt Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 703.308.2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Naresh Vig  
May 28, 2004

  
JOHN G. WEISS  
SUPERVISORY PATENT EXAMINER  
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